IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 16880 of 2004(H)

CMA.13/2002 of SUB COURT, VADAKARA
.....

PETITIONER: RESPONDENT IN CMA/PETITIONER/PLAINTIFF:

PUTHIYEDATH SUNILKUMAR,
S/O. GANGADHARAN KIDAVU, AGRICULTURIST,
AROOR AMSOM, PERUMUNDACHERI DESOM,
VATAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.P.K.BEHANAN

RESPONDENTS: APPELLANT IN CMA/RESPONDENT/DEFENDANT;

KANDIYIL THAMASIKKUM KOTUVERI
SRIDHARAKURUP, AROOR AMSOM, PERUMUNDACHERI
DESOM, VATAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.B.KRISHNAN
SRI.R.PARTHASARATHY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.16880/2004H

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ORDER DTD.11/04/2002 PASSED BY THE MUNSIFF'S COURT NADAPURAM IN I.A.NO.370/99 IN O.S.NO.45/99.**

EXT.P2: **COPY OF THE ORDER DTD. 17/03/2004 PASSED BY THE SUB COURT VATAKARA IN C.M.A.NO.13/2002.**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 16880 of 2004

Dated this the 10th day of July , 2007

JUDGMENT

Notwithstanding the strenuous and persuasive submissions of Sri.P.K.Behanan, the learned counsel for the petitioner, I am unable to say that Ext.P2 order of the lower appellate court interfering with Ext.P1 order passed in an application under Order 39 Rule 2A of C.P.C. filed by the petitioner suffers from infirmities to such an extent as to justify interference by this court under Article 227 of the Constitution. The supervisory jurisdiction of this court is visitorial in nature and would be exercised only in cases where it can be said that the order is wholly unreasonable as can be branded as perverse ; or the same violates law either statutory or settled or results in gross injustice or failure of justice. On reading through Ext.P2 I find that the learned Subordinate Judge has given two reasons for justifying his decision. He has also referred to judicial

precedents, some of which were binding on him. Though it may not be possible for this court to approve all the observations contained in Ext.P2, this court will not be able to say Ext.P2 is so bad as to justify interference under Article 227 of the Constitution.

Challenge against Ext.P2 fails. The Writ Petition is Dismissed.

PIUS C. KURIAKOSE,

JUDGE.

dpk